

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Resolution ALJ 176-3105  
Administrative Law Judge Division  
January 16, 2003

**R E S O L U T I O N**

RESOLUTION ALJ 176-3105. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

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The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

**The Categories**

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The

applicability of many of the changes it requires depends upon the category assigned to the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

### **Mixed or Unclear Category Proceedings**

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

ALJ/hkr

## **Next Steps**

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

## **Conclusion**

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

**IT IS ORDERED** that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

ALJ/hkr

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on January 16, 2003, the following Commissioners voting favorably thereon:

/s/ WESLEY M. FRANKLIN

WESLEY M. FRANKLIN  
Executive Director

MICHAEL R. PEEVEY  
President

CARL W. WOOD  
LORETTA M. LYNCH  
GEOFFREY F. BROWN  
SUSAN P. KENNEDY  
Commissioners

## PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3105 (1/16/03)

<b>NUMBER TITLE</b>	<b>PROPOSED CATEGORY</b>	<b>PRELIM. CATEGORY</b>	<b>HEARING</b>
<b>A02-11-057</b> POINT ARENA WATER WORKS, INC., for an order authorizing a rate increase in rates subject to refund producing additional annual revenues of \$70,137 or 56.9% for the test year 2002.	Ratesetting	Ratesetting	YES
<b>A02-12-019</b> MARK NICHOLS, dba GLOBAL TELECOM SOLUTIONS, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
<b>A02-12-020</b> IDT AMERICA, CORP., to extend its Certificate of Public Convenience and Necessity to include competitive local carrier service in California.	Ratesetting	Ratesetting	YES
<b>A02-12-021</b> YIPES ENTERPRISE SERVICES, INC., YIPES TRANSMISSION, INC., for ex parte grant of the authority necessary for the transfer and sale of assets to Yipes Enterprise Services, Inc.	Ratesetting	Ratesetting	NO
<b>A02-12-023</b> IN TOUCH COMMUNICATIONS, INC., for a certificate of public convenience and necessity to operate as a provider of facilities-based local exchange service.	Ratesetting	Ratesetting	NO
<b>A02-12-024</b> BART MULVIHILL, dba MALIBU CANYON AIRPORTER, for authority to operate as a scheduled Passenger Stage Corporation between points in the western San Fernando Valley and the Malibu Canyon area to the Los Angeles international Airport.	Ratesetting	Ratesetting	NO
<b>A02-12-025</b> VERIZON CALIFORNIA INC., pursuant to Public Utilities Code Sections 816 et seq. and 851 to issue and sell up to \$1,340,000,000 of new debt.	Ratesetting	Ratesetting	NO
<b>A02-12-026</b> KSG AMERICA, INC., for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
<b>A02-12-027</b> SOUTHERN CALIFORNIA GAS COMPANY, for authority to update its gas revenue requirement and base	Ratesetting	Ratesetting	YES

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
rates.			
<b>A02-12-028</b> SAN DIEGO GAS & ELECTRIC COMPANY, (U 902-M) for authority to update its gas and electric revenue requirement and base rates.	Ratesetting	Ratesetting	YES
<b>A02-12-030</b> ALTICOMM, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
<b>A02-12-031</b> PREMIUM DATA SOLUTIONS LLC, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
<b>A02-12-032</b> FOX COMMUNICATIONS CORPORATION, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
<b>A02-12-033</b> BRICKNER, WILLIAM L., PACIFIC GAS AND ELECTRIC COMPANY, for an order authorizing the sale and conveyance of a certain parcel of land in Alameda County pursuant to the Public Utilities Code Section 851.	Ratesetting	Ratesetting	NO
<b>A02-12-034</b> BROWNS VALLEY IRRIGATION DISTRICT, YUBA INVESTMENT COMPANY, for authorization to sell its water system located in Yuba County to Browns Valley Irrigation District pursuant to Public Utilities Code Section 851.	Ratesetting	Ratesetting	NO
<b>A02-12-035</b> FOCAL COMMUNICATIONS CORPORATION OF CALIFORNIA, for authority to discontinue DSL services.	Ratesetting	Ratesetting	NO

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<b>A02-12-036</b> CORNERSTONE AIRPORTER, LLC, dba AIRPORTER CORNERSTONE EXPRESS SERVICE, PABLO AND RUBILEEN CHAVEZ, dba AIRPORTER CORNERSTONE EXPRESS SERVICE, for Approval of the Transfer by Sale of Passenger Stage Certificate No.12487 from seller, Pablo and Rubileen Chavez dba Airporter Cornerstone Express Service, to Buyer, Cornerstone Airporter, LLC, dba Airporter Cornerstone Express Service pursuant to the provisions of Public Utilities Code Section 851 et seq.	Ratesetting	Ratesetting	NO
<b>A02-12-038</b> VENTURA COUNTY SHUTTLE, INC., dba VENTURA COUNTY AIRPORTER, to revise its Zone of Rate Freedom (ZORF).	Ratesetting	Ratesetting	NO
<b>A02-12-040</b> SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, for an order approving safety of the design, construction and operation of a grade-separated crossing of Hamilton Avenue (82D-5.60) by a light rail transit line and a grade-separated pedestrian crossing at Hamilton Station (82D-5.65) of a freight railroad line as part of the Vasona Corridor Light Rail Project in the City of Campbell, County of Santa Clara.	Ratesetting	Ratesetting	NO
<b>A02-12-041</b> MULVIHILL, BART C., dba CONEJO VALLEY AIRPORTER, for authority to operate as a scheduled Passenger Stage Corporation between points in the Conejo Valley and the Los Angeles International Airport.	Ratesetting	Ratesetting	NO
<b>A02-12-042</b> COUNTY OF KERN, for an Order authorizing construction of a crossing at separated grades between Mohawk Street and the tracks of the Burlington Northern and Santa Fe Railway, sometimes referred to as the Mohawk Street Underpass, P.U.C. No. 2-890.1B.	Ratesetting	Ratesetting	NO
<b>A02-12-043</b> COUNTY OF KERN, for an Order authorizing construction of a crossing at separated grades between 7th Standard Road and the tracks of the Burlington Northern and Santa Fe Railway, sometimes referred to as the 7th Standard Road Overhead, P.U.C. No. 2-899.5A.	Ratesetting	Ratesetting	NO



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<b>A02-12-044</b> BETTER WORLD TELECOM, INC., dba BETTERWORLD TELECOM, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
<b>A02-12-046</b> TALK UNLIMITED NOW, INC., (U 6703-C), for a Certificate of Public Convenience and Necessity to offer Resold and Limited Facilities-Based Local Exchange and Access Services within the State of California.	Ratesetting	Ratesetting	NO
<b>A03-01-002</b> MAJID KHAZAEIAN, dba TRI VALLEY AIRPORTER, for authority to operate as a Passenger Stage Corporation between points in the Counties of Contra Costa, Alameda and San Francisco, and the San Francisco, San Jose and Oakland International Airports; and to establish a Zone of Rate Freedom.	Ratesetting	Ratesetting	NO
<b>A03-01-003</b> TELEDATA SOLUTIONS, INC., dba TSI, for a Certificate of Public Convenience and Necessity to Provide Resold Local Exchange Services in the State of California.	Ratesetting	Ratesetting	NO
<b>A03-01-004</b> JARNAIL SINGH, dba A BAY EXPRESS SHUTTLE, for authority to operate as a Passenger Stage Corporation between points in the Counties of San Francisco, Alameda, Contra Costa, Santa Clara, Solano, Marin and San Mateo, and the San Francisco, Oakland and San Jose International Airports; and to establish a Zone of Rate Freedom.	Ratesetting	Ratesetting	NO
<b>A03-01-005</b> VIA ONE TECHNOLOGIES, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
<b>A03-01-006</b> TELEGLOBE USA INC., TELEGLOBE USA LLC, TLGB CORPORATION, for Expedited ex parte Approval of Assets and Transfer of Certificate of Public Convenience and Necessity and related transactions pursuant to Sections 851 and 854(a), California Public Utilities Code.	Ratesetting	Ratesetting	NO

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<b>NUMBER TITLE</b>	<b>PROPOSED CATEGORY</b>	<b>PRELIM. CATEGORY</b>	<b>HEARING</b>
<b>A03-01-008</b> ALTICOMM, INC., for a Certificate of Public Convenience and Necessity to Offer Resold Local Exchange Telephone Service.	Ratesetting	Ratesetting	NO
<b>A03-01-009</b> UNION PACIFIC RAILROAD COMPANY, for an order authorizing the widening of the existing Central Expressway Railroad Overpass over the Central Expressway Roadway in the City and County of Santa Clara, State of California.	Ratesetting	Ratesetting	NO
<b>A03-01-010</b> CITY OF DINUBA, TULARE COUNTY WATER COMPANY, INC., to sell, and the City of Dinuba to buy, the water system located at Tract 406 in or near the City of Dinuba, in the County of Tulare.	Ratesetting	Ratesetting	NO
<b>A03-01-011</b> BEE LINE LONG DISTANCE, LLC, dba HELLO TELECOM, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO